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## BOOK REVIEWS.

THE JUDICIARY AND THE PEOPLE. By FREDERICK N. JUDSON. New Haven: YALE UNIVERSITY PRESS. 1913. pp. 270.

It is to be hoped that the attendance of the students of the Yale Law School upon the lectures published in this little volume, was not of the perfunctory sort which often marks the attitude of even law school men towards lectures that do not count towards a degree. These lectures were worthy of serious consideration by every one who had the opportunity of listening to them; as now they are worthy of careful study by every citizen to whom they are made available in book form. They are the result of a long and honorable experience at the bar. They have no rhetorical pyrotechnics. Throughout they are characterized by sanity of thought, lucidity of statement, and judicial-mindedness.

The first three lectures are mainly historical. Mr. Judson recounts the influences which led to the adoption of our written Constitution with its sharp separation of the judicial power from the other departments of government. He finds no warrant for the assertion that our judges were guilty of usurping authority, when they nullified acts of legislation as unconstitutional. With Chief Justice Marshall, he believes they were bound by their oaths of office to declare any legislative act null and void which plainly contravened a constitutional provision.

The discussion of the recall of judges and of judicial decisions in the fourth lecture is admirable. Fair and candid in his statement of the reasons for and against the policy, free from all partisanship in his views, and calm in his argument, Mr. Judson leads up very persuasively to the conclusion that the policy "misconceives the fundamental theory of our political system," and "would necessarily be unwise in its exercise."

The concluding lecture is devoted to the defects of our judicial procedure and the remedies therefor. We have not space for a review of these in detail, and must be content with stating briefly Mr. Judson's conclusions. Most of our procedural defects are due to unwise legislation. They are to be cured by retracing our steps; by abolishing our voluminous legislative codes of practice; by enlarging judicial discretion and by dignifying the office of judge.

*Francis M. Burdick.*

CERTAINTY AND JUSTICE: Studies of the Conflict between Precedent and Progress in the Development of the Law. By FREDERIC R. COUDERT. New York and London: D. APPLETON & Co. 1913, pp. vi: 320.

This is a very readable book, and one who begins the reading of it is likely to read to the end. It consists of a series of essays upon topics which have in recent years attracted the attention of both lawyers and laymen. It is written in a clear, simple, non-technical style and illumined with interesting and apposite illustrations. The subjects discussed include the doctrine of *stare decisis*, or the nature and scope of judicial precedent; the nature and effect of written constitutions, including the possibilities of constitutional development as illustrated by recent decisions upholding legislation affecting